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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971.

No. ~~264~~ 71-264

HARRY R. BOOTH,

Petitioner,

vs.

LEMONT MFG. CORP., CECO STEEL PRODUCTS CORP., PUBLICKER CHEMICAL CORPORATION, AMERICAN OIL CO., UNION TANK CAR CO., CORN PRODUCTS CO., METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO,

Respondents.

PETITIONER'S OBJECTIONS TO CORPORATE RESPONDENTS' MOTION TO EXPUNGE AND FOR OTHER RELIEF.

HARRY R. BOOTH,
110 South Dearborn Street,
Chicago, Illinois 60603,
Petitioner pro se.

THE GUNTHORP-WARREN PRINTING COMPANY, CHICAGO

IN THE

Supreme Court of the United States

OCTOBER TERM, 1971.

No. 264.

HARRY R. BOOTH,

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LEMONT MFG. CORP., CECO STEEL PRODUCTS CORP., PUBLICKER CHEMICAL CORPORATION, AMERICAN OIL CO., UNION TANK CAR CO., CORN PRODUCTS CO., METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO,

Respondents.

PETITIONER'S OBJECTIONS TO CORPORATE RESPONDENTS' MOTION TO EXPUNGE AND FOR OTHER RELIEF.

To the Honorable, The Chief Justice of the United States, and the Associate Justices of the Supreme Court of the United States:

Now comes Petitioner Harry R. Booth pro se and for his Objections[1] to the Motion of Respondents Lemont Mfg. Corp., et al. to expunge his Emergency Motion to File a Supplementary Brief under Rule 24-5 relating to new mat-

1. Petitioner did not receive a copy of Respondents' Opposition until 10-20-71 at 11 a.m. though upon inquiry the contents were read to him over the telephone on the prior afternoon.

ters affecting the disqualification of Judge Otto Kerner and such Supplementary Brief and for other relief and states:

1. Petitioner denies Paragraphs 1, 3 and 4 of Respondents' "Opposition" etc. and Motion. With respect to Par. 2 he states that his matters or documents are or should be properly part of the record before this Court.[2]

2. The aforesaid documents filed by Petitioner were prepared and filed by Petitioner pursuant to the obligation assumed by and imposed upon Petitioner in his efforts to safeguard the rights of his large class of taxpayers and citizens (a) in the enjoyment of their constitutional jurisdictional and other rights under Amendment XIV to a hearing and trial in federal courts and (b) to obtain relief from numerous long term leases between the Metropolitan Sanitary District of Greater Chicago and the corporate defendants and others lessees.

3. The filing of such Motion and Brief is consistent with the responsibilities of Petitioner as stated by the District Court in *Booth* v. *General Dynamics Corp.*, 264 F. Supp. 465, 471 (App. 16):

> "Finally, we believe that the instant plaintiff possesses the skill and integrity necessary fairly and adequately to protect the interests of the class."[3]

4. Petitioner's Emergency Motion and Supplementary Brief, based as they are upon the best evidence available

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2. Though Respondent has over-stated the number of "12 judges" who reviewed this matter below (p. 2) since the Seventh Circuit then possessed only seven active judges and one had previously withdrawn from the case (Petition p. 13). Petitioner does not because of his high regard for the members of the Court consider the number significant other than indicating further evidence of the absence of infallibility of the Respondent's statements of facts. What is significant is the apparent long restrictive policy of the Seventh Circuit Court towards en banc hearings believed to practically exclude non-governmental civil litigants therefrom.

3. See also Exhibit 1.

support his claim that he has demonstrated the existence of substantial due process issues arising out of the participation of Judge Otto Kerner in the hearing before the Court of Appeals.

5. The right of Petitioner's large class to a due process hearing cannot be denied for the reason that the disclosure of all circumstances and facts may now be impossible or inappropriate in view of pending inquiries conducted by agencies of the government of the United States.

6. Petitioner's insistence upon a due process hearing even though predicated upon commonly accepted facts reflecting upon the right of a single judge of the Court of Appeals to have participated in such proceeding is not scandalous. Rather it represents an effort to balance the scales between the enormous and variety of resources available to Respondents, the power inherently exercised by such special privilege corporations, the prestige, skill, experience and success of their large law firms and the public represented by Petitioner in this litigation.

7. Petitioner's judgment as to the measures properly necessary under the law to safeguard the interests of his large class is entitled to the same weight that is generally accorded the large firms representing the private interests in this litigation. Petitioner's judgment is predicated upon some 40 years of experience serving Federal and State agencies, utility users, taxpayers, pensioners largely in contest with or regulation of special interest corporations. Such experience includes extensive litigation in this Court, the Courts of Appeal of the Seventh Circuit and the District of Columbia, other federal courts and the Illinois Supreme Court. This record does not support Respondents' allegation that Petitioner has maligned one of the judges of the Court of Appeals or that the documents filed in this Court or any of them warrant the granting of the extraordinary relief prayed for by such Respondents.

8. Petitioner's rights to a fair and impartial trial have undoubtedly been impaired. Respondents claims of non-relation thereto are immaterial and also incorrect in respect to the state court judgment.

9. There are instances, rare perhaps, when some criticism by counsel of a judge may be proper, if presented to a reviewing court. This is such an instance.

NOW THEREFORE, Petitioner pro se, Harry R. Booth, prays that this Honorable Court overrule the Motions of the Respondents, Lemont Mfg. Corp., et al. and grant the relief prayed for by Petitioner.

Respectfully submitted,

HARRY R. BOOTH,
Petitioner pro se.

HARRY R. BOOTH,
110 South Dearborn,
Chicago, Illinois 60603,
AN 3-6475.

United States Circuit Court of Appeals
For the Seventh Circuit
1212 Lake Shore Drive
Chicago

Chambers of
Judge Otto Kerner

January 2, 1940

Mr. Harry R. Booth
160 North LaSalle Street
Chicago, Illinois

Dear Mr. Booth:

I am pleased to acknowledge receipt of a copy of the opinion in the Peoples Gas Company case in which the Supreme Court reversed the Circuit Court of Cook County, thereby sustaining the contentions we made at the inception of the case.

Please accept my congratulations upon the outcome of the case. It was your splendid work, perseverance and complete confidence in the result that carried us to success.

Wishing you a Happy and Prosperous New Yeer, I remain

Sincerely yours,

Otto Kerner

Exhibit 1

SUPREME COURT, U. S.

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Respondents.

REVIEW OF THE FINAL JUDGMENT OF THE COURT OF APPEALS, SEVENTH CIRCUIT. No. 18121.

OPPOSITION TO PETITIONER'S EMERGENCY MOTION TO FILE A SUPPLEMENTARY BRIEF UNDER RULE 24-5 AND MOTION TO EXPUNGE PETITIONER'S EMERGENCY MOTION AND THE EXHIBITS THERETO FROM THE RECORD.

THOMAS M. THOMAS,
Attorney for Respondent
American Oil Company.

Of Counsel:
KIRKLAND, ELLIS, HODSON,
CHAFFETZ & MASTERS,
130 East Randolph Drive,
Chicago, Illinois 60601.

ATTORNEYS FOR REMAINING RESPONDENTS LISTED ON THE LAST PAGE OF THIS OPPOSITION.

THE GUNTHORP-WARREN PRINTING COMPANY, CHICAGO

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To the Honorable, The Chief Justice of the United States, and the Associate Justices of the Supreme Court of the United States:

Lessee Respondents oppose Petitioner's "Emergency Motion to File a Supplementary Brief Under Rule 24-5 Relating to the Disqualification of Judge Otto Kerner and For Other Relief" and respectfully move the Court to enter an order expunging Petitioner's Emergency Motion and the exhibits attached thereto from the record.

In support hereof Respondents show the Court that:

1. The motion refers to no facts and contains no allegations of fact which could conceivably be relevant to the decision sought to be reviewed. The newspaper articles made exhibits to the motion clearly are not "intervening matter" within the purview of Rule 24-5. It is indisputable that the matters contained in the newspaper articles have no connection with this litigation or any litigant.

2. The matters referred to by Petitioner are clearly not a part of the record in this cause.

3. The assertions made in the motion and the exhibits thereto attached are specious and hearsay on their face.

Maligning one of the twelve judges below who reviewed this matter cannot possibly be a basis for granting certiorari.

Respectfully submitted,

KIRKLAND, ELLIS, HODSON, CHAFFETZ & MASTERS,
2700-130 East Randolph Drive,
Chicago, Illinois
Of Counsel.

JENNER & BLOCK,
135 South La Salle Street,
Chicago, Illinois,
Of Counsel.

MAYER, BROWN & PLATT,
231 South La Salle Street,
Chicago, Illinois,
Of Counsel.

FREEMAN, SCHMETTERER, FREEMAN & SALTZMAN,
One North La Salle Street,
Chicago, Illinois,
Of Counsel.

McCONNELL, CURTIS, MAHON & BORST,
134 South La Salle Street,
Chicago, Illinois,
Of Counsel.

THOMAS M. THOMAS,
Attorney for Respondent American Oil Company.

KEITH F. BODE,
Attorney for Respondents Lemont Manufacturing Corp. and the Ceco Corporation.

ROGER W. BARRETT,
Attorney for Respondent Corn Products Co.

LEE A. FREEMAN,
JERROLD SALZMAN,
Attorneys for Respondent Publicker Chemical Corp.

FRANCIS J. McCONNELL,
JOHN BORST, JR.,
Attorneys for Respondent Union Tank Car Company.